

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DENISE A. CERNY,

Defendant.

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8:08CR39

ORDER

This matter is before the court on the motion to continue by defendant Denise A. Cerny (Cerny) (Filing No. 38). Cerny seeks a continuance of the trial of this matter which is scheduled for February 2, 2009, because of the unavailability of an essential witness. Cerny's counsel represents that Cerny will submit an affidavit wherein she represents that she consents to the motion and acknowledges she understands the additional time may be excludable time for the purposes of the Speedy Trial Act. Cerny's counsel represents that government's counsel has no objection to the motion. Upon consideration, the motion will be granted.

IT IS ORDERED:

1. Cerny's motion to continue trial (Filing No. 38) is granted.
2. Trial of this matter is re-scheduled for **February 9, 2009**, before Chief Judge Joseph F. Bataillon and a jury. The ends of justice have been served by granting such motion and outweigh the interests of the public and the defendant in a speedy trial. The additional **time** arising as a result of the granting of the motion, i.e., the time between **January 27, 2009 and February 9, 2009**, shall be deemed **excludable** time in any computation of time under the requirement of the Speedy Trial Act for the reason that one of defendants' essential witnesses will be unavailable for trial. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(3)(A).

DATED this 27th day of January, 2009.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge